

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JOSE R. ROMAN-ACOSTA
Defendant.

CRIMINAL NO. 97-178 (PG)

MOTION TO DISMISS FOR LACK OF JURISDICTION
(Re: Post-term Revocation)

TO THE HONORABLE
JUAN M. PEREZ-GIMENEZ
UNITED STATES SENIOR JUDGE
FOR THE DISTRICT OF PUERTO RICO

COMES NOW Defendant José R. Román-Acosta (hereinafter “Román”) and before this Honorable Court (hereinafter “the Court”) respectfully alleges and prays:

I. Introduction.

On July 1, 2004, the Court revoked defendant’s original term of supervised release, and imposed a sentence of imprisonment of ten (10) months, plus a term of supervised release of two (2) years. Docket Entry No. 32. On April 21, 2005, defendant Román was released from imprisonment, “at which time his supervised release term commenced”. *See, Motion Notifying Supervised Release Violations and Request for the Issuance of an Arrest Warrant*, at 1. (Hereinafter, “ the Motion”). Docket Entry No. 36, filed on March 6, 2007.

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In the Motion the U.S. Probation Office advised the Court of new violations by the defendant, and requested the issuance of an arrest warrant. On April 10, 2007, the Court granted the motion, and issued the arrest warrant. Docket Entry No. 37, 38.

II. Relief Requested.

Defendant prays to the Honorable Court to dismiss the instant revocation proceeding for lack of jurisdiction.

III. Basis for Relief.

The Court's jurisdiction over violations of supervised release is extended beyond the term of supervised release where a warrant or summons has issued for an alleged violation *before* the actual term has ended. 18 U.S.C. §3583(I). *See, also* United States v. Naranjo, 259 F.3d 379, 383 (5th Cir. 2001) ("...,the statute's plain language permits revocation based on any violation of a condition of supervised release occurring during the supervision term,..., so long as a warrant or summons was issued during that term on the basis of an alleged violation"). Defendant's term of supervised release expired on April 4, 2007. *See* Motion, at 1. The warrant of arrest in the instant case was issued on April 10, 2007. Docket Entry No. 38.

IV. Conclusion.

FOR THESE REASONS, defendant prays this Honorable Court to dismiss the instant revocation proceeding for lack of jurisdiction.

RESPECTFULLY SUBMITTED.

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I HEREBY CERTIFY that on this date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties of record.

In San Juan, Puerto Rico, this 20th day of April, 2007.

JOSEPH C. LAWS, JR
Federal Public Defender
District of Puerto Rico

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